

**§ 40.473**

lost (otherwise than by theft) or destroyed by fire, casualty, or act of God, while in the possession or ownership of the manufacturer who removed such articles, or are withdrawn by the manufacturer from the market. Any claim for allowance under this section shall be filed on TTB Form 2635 (5620.8) with the appropriate TTB officer, shall be executed under penalties and perjury and shall show the date the cigarette papers and tubes were removed from the factory. A claim relating to articles lost or destroyed shall be supported as prescribed in § 40.475. In the case of a claim relating to cigarette papers or tubes withdrawn from the market the schedule prescribed in § 40.476 shall be filed with the appropriate TTB officer. The manufacturer may not anticipate allowance of a claim by making the adjusting entry in a tax return pending consideration and action on the claim. Cigarette papers and tubes to which such a claim relates must be shown as removed on determination of tax in the return covering the period during which such articles were so removed. Upon action on the claim by the appropriate TTB officer a copy of TTB Form 2635 (5620.8) will be returned to the manufacturer as notice of such action. This copy of TTB Form 2635 (5620.8), with the copy of any verified supporting schedules, shall be retained by the manufacturer. When such notification of allowance of the claim or any part thereof is received prior to the time the return covering the tax on the cigarette papers or tubes to which the claim relates is to be filed, the manufacturer may make an adjusting entry and explanatory statement in that tax return. Where the notice of allowance is received after the filing of the return and taxpayment of the cigarette papers or tubes to which the claim relates, the manufacturer may make an adjusting entry and explanatory statement in the next tax return(s) to the extent necessary to take credit in the amount of the allowance.

(72 Stat. 1419, as amended, 26 U.S.C. 5705)

**§ 40.473 Credit or refund.**

The taxes paid on cigarette papers and tubes may be credited or refunded (without interest) to a manufacturer on proof satisfactory to the appro-

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priate TTB officer that the claimant manufacturer paid the tax on cigarette papers and tubes lost (otherwise than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer, or withdrawn by the manufacturer from the market. Any claim for credit or refund under this section shall be prepared on TTB Form 2635 (5620.8), in duplicate. Claims shall include a statement that the tax imposed on cigarette papers and tubes by 26 U.S.C. 7652 or Chapter 52, was paid in respect to the cigarette papers or tubes covered by the claim, and that the articles were lost, destroyed, or withdrawn from the market within 6 months preceding the date the claim is filed. A claim for credit or refund relating to articles lost or destroyed shall be supported as prescribed in § 40.475, and a claim relating to articles withdrawn from the market shall be accompanied by a schedule prepared and verified as prescribed in §§ 40.476, and 40.477. The original and one copy of TTB Form 2635 (5620.8), shall be filed with the appropriate TTB officer. Upon action by the appropriate TTB officer on a claim for credit, a copy of TTB Form 2635 (5620.8) will be returned to the manufacturer as notification of allowance or disallowance of the claim or any part thereof. This copy, with the copy of any verified supporting schedules, shall be retained by the manufacturer. When the manufacturer is notified of allowance of the claim for credit or any part thereof, the manufacturer shall make an adjusting entry and explanatory statement in the next tax return(s) to the extent necessary to take credit in the amount of the allowance. The manufacturer may not anticipate allowance of a claim by taking credit on a tax return prior to consideration and action on such claim. The duplicate of a claim for refund or credit, with a copy of any verified supporting schedules, shall be retained by the manufacturer.

(72 Stat. 1419, as amended, 26 U.S.C. 5705)

**§ 40.474 Remission.**

Remission of the tax liability on cigarette papers and tubes may be extended to the manufacturer liable for the tax where cigarette papers and

tubes in bond are lost (other than by theft) or destroyed, by fire, casualty, or act of God, while in the possession or ownership of such manufacturer. Where cigarette papers and tubes are so lost or destroyed the manufacturer shall report promptly such fact, and the circumstances, to the appropriate TTB officer. If the manufacturer wishes to be relieved of the tax liability, a claim on TTB Form 2635 (5620.8), in duplicate, shall also be prepared, setting forth the nature, date, place, and extent of the loss or destruction. The original and one copy of the claim, accompanied by such evidence as is necessary to establish to the satisfaction of the appropriate TTB officer that the claim is valid, shall be filed with the appropriate TTB officer. Upon action on the claim by the appropriate TTB officer, the copy of TTB Form 2635 (5620.8) will be returned to the manufacturer as notice of such action, which copy shall be retained by the manufacturer.

(72 Stat. 1419, as amended, 26 U.S.C. 5707)

*Lost or Destroyed*

**§ 40.475 Action by claimant.**

Where cigarette papers and tubes are lost (other than by theft) or destroyed, by fire, casualty, or act of God, and the manufacturer desires to file claim under the provisions of § 40.472 or § 40.473, the manufacturer shall indicate on the claim the nature, date, and extent of such loss or destruction. The claim shall be accompanied by such evidence as necessary to establish to the satisfaction of the appropriate TTB officer that the claim is valid.

(72 Stat. 1419; 26 U.S.C. 5705)

*Withdrawn From the Market.*

**§ 40.476 Action by claimant.**

Where cigarette papers and tubes are withdrawn from the market and the manufacturer desires to file claim under the provisions of § 40.472 or § 40.473, the manufacturer shall assemble the articles in or adjacent to a factory if they are to be retained in or received into such factory, or at any suitable place if they are to be destroyed. The manufacturer shall group the articles according to the rate of tax

applicable thereto, and shall prepare and submit a schedule of the articles, on TTB Form 5200.7 in accordance with the instructions, on the form. All copies of the schedule shall be forwarded to the appropriate TTB officer.

(72 Stat. 1419; 26 U.S.C. 5705)

[T.D. ATF-384, 61 FR 54085, Oct. 17, 1996, as amended by T.D. ATF-424, 64 FR 71932, Dec. 22, 1999]

**§ 40.477 Action by the appropriate TTB officer.**

Upon receipt of a schedule of cigarette papers and tubes withdrawn from the market, the appropriate TTB officer may assign a TTB officer to verify the schedule and supervise disposition of the cigarette papers and tubes, or may authorize the manufacturer to dispose of the articles without supervision by so stating on the original and one copy of the schedule returned to the manufacturer.

(72 Stat. 1419; 26 U.S.C. 5705)

**§ 40.478 Disposition of cigarette papers and tubes and schedule.**

When so authorized, as evidenced by the appropriate TTB officer's statement on the schedule, the manufacturer shall dispose of the cigarette papers and tubes as specified in the schedule. After the articles are disposed of, the manufacturer shall execute a certificate on both copies of the schedule received from the appropriate TTB officer, to show the disposition and the date of disposition of the articles. In connection with a claim for credit or refund, the manufacturer shall attach the original of the schedule to the claim for credit or refund, TTB Form 2635 (5620.8), filed under § 40.473. When an appropriate TTB officer is assigned to verify the schedule and supervise disposition of the cigarette papers and tubes, such officer shall, upon completion of the assignment, execute a certificate on all copies of the schedule to show the disposition and the date of disposition of the articles. In connection with a claim for allowance, the officer shall return one copy of the schedule to the manufacturer for the record, and in connection with a claim for credit or refund, the officer shall return the original and